

040741/15231

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

ST. CHARLES GLASS & GLAZING, INC.,

Plaintiff,

v.

NATIONAL TRUST INSURANCE COMPANY,

Defendant.

Case No.

NOTICE OF REMOVAL

Defendant, National Trust Insurance Company (“National Trust”), by and through its undersigned attorneys, and for its Notice of Removal of St. Charles Glass & Glazing, Inc.’s (“St. Charles Glass”) Petition for Declaratory Judgment to this Court from the Circuit Court of the Eleventh Judicial Circuit, St. Charles County, Missouri, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, states as follows:

GROUNDS FOR REMOVAL

This Court has original jurisdiction of this action under 28 U.S.C. §1332. The action may be removed to this Court pursuant to 28 U.S.C. §1441 and §1446(b) for the following reasons:

I. REMOVAL IS TIMELY AND PROCEDURALLY PROPER.

1. On April 4, 2019, St. Charles Glass filed a Petition for Declaratory Judgment against National Trust in the Circuit Court of the Eleventh Judicial Circuit, St. Charles County, Missouri (the “St. Charles Glass Action”). Attached hereto as Exhibit A is a copy of the St. Charles Glass Action, without exhibits.

2. On April 15, 2019, National Trust was formally served with process through the Missouri Director of Insurance. Attached hereto as Exhibit B is the Summons.

3. Therefore, this Notice of Removal is filed within thirty (30) days of service of the initial pleading on National Trust, as is required by 28 U.S.C. §1446(b)

II. THE COMPLETE DIVERSITY OF CITIZENSHIP REQUIREMENT IS SATISFIED.

4. This action is one on which this Court has original jurisdiction under the provision of 28 U.S.C. §1332(a) and is one which may be removed in accordance with said provision because it is a civil action between citizens of different states, where the matter in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00).

5. St. Charles Glass is a Missouri corporation in good standing, with its principal place of business in Missouri, which conducts business in this judicial district in the State of Missouri. St. Charles Glass is therefore a citizen of the State of Missouri.

6. National Trust is an Indiana corporation in good standing, with its principal place of business in the State of Indiana. National Trust is therefore a citizen of the State of Indiana.

7. Therefore, as National Trust is not a citizen of the State of Missouri, complete diversity of citizenship exists between the parties under 28 U.S.C. §1332(a).

III. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED.

8. In this action, St. Charles Glass seeks recovery under an insurance policy National Trust issued to St. Charles Glass in connection with property damage at BJC HealthCare's Offsite Pediatric Ambulatory Center building in St. Louis, Missouri. (Ex. A, ¶¶5, 10).

9. St. Charles Glass asserts that it repaired damage to BJC's property and that National Trust failed to indemnify St. Charles Glass for the costs of repairing the property damage. (Ex. A, ¶¶11, 22). In correspondence, St. Charles Glass estimated its total loss would be in the range of \$300,000 to \$500,000. (Attached hereto is Ex. 3 to Ex. A).

10. Therefore, the St. Charles Glass Action seeks damages in excess of \$75,000 and the jurisdictional limit under 28 U.S.C. §1332(a) is satisfied.

IV. VENUE IS PROPER IN THIS COURT.

11. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Eastern District of Missouri is the federal judicial district encompassing the Circuit Court of the Eleventh Judicial Circuit, St. Charles County, Missouri, where the underlying suit was originally filed. Additionally, venue is proper in the Eastern District of Missouri pursuant to L.R. 3 2.07 (B)(2), because St. Charles Glass is a resident of the Eastern District.

12. National Trust will promptly file a copy of this Notice of Removal with the clerk of the state court where the St. Charles Glass Action has been pending.

WHEREFORE, Defendant National Trust Insurance Company respectfully requests that the action now pending against it in the Circuit Court of the Eleventh Judicial Circuit, St. Charles County, Missouri, be removed therefrom to this Honorable Court, and that this Court assume full jurisdiction over the cause herein as provided by law, and grant such further relief as this Court deems just and appropriate.

Respectfully submitted,

CASSIDAY SCHADE LLP

By: /s/ Timothy P. Dugan

One of the Attorneys for Defendant,
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CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2019, I electronically filed the foregoing with the Clerk of the Eastern District of Missouri using the CM/ECF system. The electronic case filing system sent a "Notice of E-Filing" to the following:

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